

1 **LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS**
2 **ODAWA FISHERY INC. CORPORATE CHARTER**
3
4

5 This Corporation is hereby organized, incorporated and granted its corporate powers,
6 privileges and immunities under the laws of the Little Traverse Bay Bands of Odawa Indians as a
7 tribally chartered corporation for the purposes set forth in Article III. The Little Traverse Bay
8 Bands of Odawa Tribal Council grants this corporate charter pursuant to its inherent sovereign
9 authority and pursuant to Part Two of Comprehensive Business Codes of the Little Traverse Bay
10 Bands of Odawa Indians, WOTC 12.114, *et seq.* This Charter creates a Tribal Corporation as
11 defined at WOTC 12.116(B) as a corporation wholly owned by the Little Traverse Bay Bands of
12 Odawa Indians for the benefit of the Tribe and its Citizens, and its ownership is inalienable.
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15 **ARTICLE I: NAME**
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17 The name of this Tribal Corporation is **Odawa Fishery Inc.** The Corporation shall have
18 its principal place of business at 229 S. Huron Ave. Mackinaw City, Michigan 49701 or at such
19 other location within the Tribe's territories that the Board of Directors of the Corporation shall
20 determine.
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23 **ARTICLE II: OWNERSHIP**
24

25 The Corporation shall be 100% owned and controlled by the Little Traverse Bay Bands
26 of Odawa Indians, (Tribe).
27
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29 **ARTICLE III: PURPOSES**
30

31 The purpose of the Corporation is to pursue business opportunities and economic
32 development with an emphasis on Great Lakes commercial fishing. The Corporation may form
33 partnerships with other tribes or entities acting on behalf of other tribes and/or any other relevant

1 corporations or entities.
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4 **ARTICLE IV: DEFINITIONS**

5

6 For purposes of this Charter the following terms shall have the meanings respectively
7 specified:
8

9 **a.** “*Board of Directors*” shall mean the Board of Directors of the Corporation
10 created by this Charter.
11

12 **b.** “*Corporation*” shall mean the Odawa Fishery, Inc., created by this Charter.
13

14 **d.** “*Felony*” shall mean only those offenses set forth under Tribal Statute or the
15 United States Indian Major Crimes Act (18 U.S.C. § 1153).
16

17 **e.** “*Obligations*” shall mean any notes, bonds, interim certificates, debentures or
18 other evidences of indebtedness issued by the Corporation under this Charter.
19

20 **f.** “*Obligee*” shall mean any holder of an Obligation and any agent or trustee for
21 any holder of any Obligation.
22

23 **h.** “*Non-gaming Economic Affairs*” means economic development enterprises and
24 activities not related to the gaming commercial enterprises.
25

26 **i.** “*Territorial Jurisdiction of the Little Traverse Bay Bands of Odawa Indians*”
27 means “*areas referenced in Public Law 103-324, 25 USC Section 1300k-2(b)(2)(A) as*
28 *the boundaries of the reservations for the Little Traverse Bay Bands as set out in Article*
29 *I, paragraphs ‘third and fourth’ of the Treaty of 1855, 11 Stat.621.*” Little Traverse Bay
30 Bands Constitution, Article V(A)(1)(a).
31

32 **j.** “*Tribe*” or “*LTBB*” means the Little Traverse Bay Bands of Odawa Indians.
33

1 **k.** *“Tribal Constitution”* means the Little Traverse Bay Bands of Odawa Indians
2 Constitution as adopted by its membership on February 2, 2005.

3
4 **l.** *“Tribe Council”* means the elected body of nine Tribal Citizens of Little Traverse
5 Bay Bands of Odawa Indians with duties found in the Tribal Constitution Article VII.,
6 “Tribal Council”.

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9 **ARTICLE V: RELATION TO TRIBE**

10
11 The Corporation shall constitute a governmental instrumentality of the Tribe, having
12 autonomous existence separate and distinct from the Tribe.

13
14 **a.** For purposes of civil jurisdiction, regulatory jurisdiction and taxation, the
15 Corporation shall be deemed a subordinate arm of the Tribe and shall be entitled
16 to all of the privileges and immunities of the Tribe.

17
18 **b.** The Corporation shall have no power to exercise any regulatory or legislative
19 power; the Tribe reserves from the Corporation all regulatory, legislative and other
20 governmental power.

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23 **ARTICLE VI: ASSETS**

24
25 The Corporation shall have only those assets of the Tribe formally assigned or leased to
26 it by the Tribal Council, together with whatever assets it acquires by other means as provided in
27 this Charter. No activity of the Corporation, or any indebtedness incurred by it shall encumber,
28 implicate or in any way involve assets of the Tribe or another Tribal Entity not assigned or
29 leased in writing to the Corporation.

30
31 Odawa Fishery Inc. is hereby assigned control of the land, real property, building(s),
32 equipment and assets at 229 S. Huron Ave. Mackinaw City, Michigan 49701, formerly known as
33 Bell’s Fishery.

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3 **ARTICLE VII: BOARD OF DIRECTORS**
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5 The management of the affairs of the corporation shall be vested in a Board of Directors,
6 except as otherwise provided in this Charter or in the bylaws of the corporation. The Board of
7 Directors shall be comprised of the Natural Resources Commission.
8

9 **a. Compensation**
10

11 **1.** The Board members may be compensated a reasonable amount as
12 approved by Tribal Council, provided availability of funds.
13

14 **2.** Board members shall adhere to the approved travel policies for
15 reimbursement of travel expenses.
16
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18 **ARTICLE VIII: CORPORATE POWERS**
19

20 The Corporation shall have the power to:
21

22 **a.** To purchase, receive, solicit, take by gift, devise, or bequest, or otherwise acquire,
23 own, hold, improve, use, and otherwise deal in personal property of every description, or
24 any interest therein, wherever situated.
25

26 **b.** To lease real property and improvements from the Little Traverse Bay Bands of
27 Odawa Indians.
28

29 **c.** To make contracts or agreements, incur liabilities and borrow money from any
30 source, upon such terms and rates and interests as the Board of Directors may determine;
31 to issue notes, bonds and other obligations and secure any of its obligations by
32 specifically mortgaging, pledging or assigning its corporate property or income as
33 collateral for its corporate debts or liabilities.
34

- 1 **d.** To lend or invest money for its corporate purposes.
- 2
- 3 **e.** To conduct its affairs, carry on its operations, and exercise the powers granted
- 4 under this Corporate Charter in any state, territory, district, or possession of the United
- 5 States or in any foreign country.
- 6
- 7 **f.** To elect or appoint officers and agents of the corporation and define their duties
- 8 and fix their compensation
- 9
- 10 **g.** To sue and be sued but only in accordance with Article V of this Charter.
- 11
- 12 **h.** To have and exercise all powers incidental, necessary or convenient to the
- 13 conduct of corporate business, not inconsistent with applicable law, and to engage in any
- 14 and all activities which will directly or indirectly carry out the purposes as set forth in
- 15 Article III.
- 16
- 17

18 **ARTICLE IX: SOVEREIGN IMMUNITY**

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- 20 **a.** The Corporation is a distinct legal entity from the Little Traverse Bay Bands of
- 21 Odawa Indians with its own assets. While the Tribe is the sole owner, the Corporation's
- 22 corporate activities, transactions, obligations, liabilities and property are not those of the
- 23 Tribe. Nothing in this charter waives or permits the corporation to waive the Tribe's
- 24 sovereign immunity from suit.
- 25
- 26 **b.** The Corporation may effectuate limited waivers of its sovereign immunity for
- 27 conducting day-to-day business if the waivers are made in accordance with either of the
- 28 following methods:
- 29
- 30 **1.** Tribal Council may expressly authorize a limited waiver of sovereign
- 31 immunity on a case-by-case basis through a specific resolution.
- 32

1 **2.** The Corporation may waive its sovereign immunity pursuant to
2 transactions or agreements that the Tribal Corporation may execute in the course
3 of its ordinary business affairs.
4

5 **3.** Any waivers of sovereign immunity made pursuant to (1) or (2) above
6 shall only expose the assets owned or held by the Corporation and shall not
7 subject other Tribal assets to liability. Waivers of sovereign immunity are
8 disfavored and shall be granted only when necessary to secure a substantial
9 advantage or benefit to the Tribal Corporation. Waivers of sovereign immunity
10 shall not be general but shall be specific and limited as to duration, grantee,
11 transaction, property or funds, if any, of the Tribal Corporation subject thereto.
12 Neither the power to sue and be sued provided in this Charter, nor any express
13 waiver of sovereign immunity by resolution of the Corporation's Board of
14 Directors or the Tribal Council shall be deemed a consent to the levy of any
15 judgment, lien or attachment upon any property of the Tribal Corporation other
16 than property specifically pledged or assigned, or any property of the Tribe, or a
17 consent to suit with respect to any land within the exterior boundaries of the
18 Reservation or consent to the alienation, attachment or encumbrance of any such
19 land.
20

21 **c.** Sovereign Immunity of the Tribe. All inherent sovereign rights of the Tribe as a
22 federally recognized Indian tribe with respect to the existence of the Tribal Corporation
23 are hereby expressly reserved, including sovereign immunity from suit in any state,
24 federal or tribal court. Nothing in this Charter shall be deemed or construed to be a
25 waiver of sovereign immunity from suit of the Tribe or to be a consent of the Tribe to the
26 jurisdiction of the United States or of any state with regard to the business affairs of the
27 Tribal Corporation or the Tribe or any cause of action, case or controversy.
28
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30 **ARTICLE X: MANAGEMENT OF CORPORATION**

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32 The Board of Directors is empowered and directed to adopt bylaws consistent with this
33 Charter and all applicable law to set out management of the Corporation and regulation of its
34 affairs.

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3 **ARTICLE XI: INSULATION FROM SHIFTS IN TRIBAL POLITICS**
4

5 **a.** Board members can only be involuntarily removed during their term for one or
6 more of the following reasons:
7

- 8 **1.** The Board member(s) intentionally or negligently took action to harm the
9 interests of the Corporation or Tribe;
10
11 **2.** The Board member(s) is convicted on any crime that could harm the
12 credibility or function of the Corporation;
13
14 **3.** The Board member(s) is convicted of a felony;
15
16 **4.** The Board member(s) failed to act in good faith, or with the care that an
17 ordinarily prudent person in a like position would exercise under similar
18 circumstances, or in a manner he or she reasonably believes to be in the best
19 interests of the Corporation.
20
21 **5.** The Board member(s) fail to meet the financial performance measures or
22 show any substantial action toward achieving such measures.
23

24 **b.** Removal of a Board member(s) for one or more of the reasons set out in
25 subsection (a) above can only be accomplished by an affirmative vote of three-fourths
26 ($\frac{3}{4}$) or more of the Board.
27

28 **c.** Any changes to this charter by Tribal Council shall only be adopted upon the
29 affirmative vote of three-fourths ($\frac{3}{4}$) or more of those Tribal Council members eligible to
30 vote.
31

32 **d.** Member(s) of the Board of Directors appointed under Article III serve 3 year
33 terms and there shall be no limitation on the amount of terms that may be served. Any

1 changes to this charter by Tribal Council shall only be adopted upon the affirmative vote
2 of three fourths (¾) or more of those council members eligible to vote.
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5 **ARTICLE XII: ATTORNEYS**

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7 The Corporation may utilize the services of Tribal attorney(s) with prior approval by
8 Tribal Council. The Corporation with Board approval may hire the services of outside attorneys
9 as necessary.
10

11 **ARTICLE XIII: DURATION and DISSOLUTION**

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14 The Corporation shall continue in perpetuity unless and until dissolved upon adoption of
15 a resolution requiring dissolution by an affirmative vote of three-fourths (¾) or more of the
16 Tribal Council members eligible to vote. No such resolution shall take effect before the
17 expiration of 90 days from the date of adoption. Upon dissolution of this Tribal Corporation, its
18 assets shall be distributed at the direction of the Tribal Council, or its designee, as follows:
19

- 20 **a.** Any property held upon an express condition requiring its return, transfer or other
21 disposition shall be distributed accordingly;
22
23 **b.** Any property or assets required to be distributed or transferred in any manner
24 according to federal law shall be distributed or transferred accordingly;
25
26 **c.** Claims of creditors of the Tribal Corporation approved by the Tribal Council shall
27 be paid accordingly from the assets or funds of the corporation; and
28
29 **d.** Remaining assets shall be transferred to another Tribal Corporation, to the Tribe,
30 or distributed or transferred as the Tribal Council directs.
31
32

33 **ARTICLE XIV: REGISTERED AGENT**

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1 The Registered Agent of the Corporation is:

2
3 Name: Executive Director

4 Address: Odawa Fishery

5 229 S. Huron Ave. Mackinaw City, 49701
6

7 Provided, the Board of Directors may change the Registered Agent by taking official
8 action and notifying Tribal Council and the Department of Commerce of the change.
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11 **ARTICLE XV: DISTRIBUTIONS TO TRIBAL GOVERNMENT**
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13 The Board of Directors shall distribute annually fair and reasonable profits to the Tribal
14 government beyond the amount required to maintain adequate funds in the Corporation for debt
15 service, and maintenance and growth of business operations. The Corporation shall have no
16 power to issue any shares of stocks to declare and pay any dividends. The first \$450,000 in
17 profits will be remitted to the LTBB Natural Resource Commission to satisfy the original loan
18 agreement for the purchase of the Bell's Fishery property.
19

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21 **ARTICLE XVI: REPORTING AND AUDIT REQUIREMENTS**
22

23 The Corporation shall provide quarterly reports to Tribal Council setting out the
24 Corporation's assets, liabilities, equity, revenue and expenses in reasonable detail, and general
25 corporate activities.
26

27 The Corporation shall obtain an annual financial audit by an independent public
28 accountant, the results of which will be provided to Tribal Council within 120 days of the end of
29 its fiscal year.
30

31 The Corporation shall keep correct and complete books and records of account and shall
32 keep minutes of its meetings. All books and records of the corporation, except for sensitive
33 proprietary information, may be inspected by any LTBB citizen at the location where the records

1 are normally kept at any reasonable time.
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10 ***Certificate of Adoption***
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12 As Tribal Secretary and Legislative Leader, we certify that this Charter was formally
13 adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians by adoption of
14 Resolution #_____on _____.
15

16 Date: _____
17

18 Date: _____
19